

## REMARKS/ARGUMENTS

In the Office Action dated September 3, 2004, the Examiner: 1) cited deficiencies in the IDS; 2) rejected claims 1-7, 20-21, 23-26, 30, 40-41, 45, and 51 under 35 U.S.C. § 112, second paragraph; 3) rejected claims 27-29, 31, 39, 43-49, and 59-61 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,866,492, issued to *Knoll* (hereinafter *Knoll*); 4) rejected claims 1-5, 7-11, 14-16, 18-25, 30, 32-38, 40-42, 50-56, and 58 under 35 U.S.C. § 103(a) as being unpatentable over *Knoll* in view of U.S. Patent No. 6,230,591, issued to *Ling et al.* (hereinafter *Ling*); and 5) rejected claims 6, 12-13, 17, 26, and 57 under 35 U.S.C. § 103(a) as being unpatentable over *Knoll* in view of *Ling* and U.S. Patent No. 4,903,554, issued to *Colvin* (hereinafter *Colvin*).

### Information Disclosure Statement

The prior art citations requested by the Examiner are included herewith in an Appendix.

The foreign patent document citations listed on the Information Disclosure Statement filed 31 October 2003 without dates are provided below:

AF	130638	03/11/1990	China (w/translation)
AG	212343	09/01/1993	China (w/translation)
AH	310649	07/11/1997	China (w/translation)

### Rejections under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 1-7, 20-21, 23-26, 30, 40-41, 45, and 51 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

### Claims 1 and 51

With respect to claims 1 and 51, the Examiner objects to the pawl being described as "pivoting about the rotational axis of the gear wheel." The Examiner interprets the pawl as being a "sliding pawl that slides relative to the gear wheel." The Applicant would like to draw the Examiner's attention to the first line of paragraph [0036] of the specification, which describes "[a] transmission member 70 [that] is provided to convert manual pivotal movement of the reversing plate 50 into pivotal movement of the pawl 30 about the rotational axis of the gear wheel 21." Further, the last sentence of paragraph [0040] of the specification clearly states that "[i]t is appreciated that the pawl 30 is pivoted during pivotal movement of the thumb piece 52 via transmission of the transmission member 70 and the ring 40 that engages with the pawl 30." Therefore, after reading the specification, one of ordinary skill in the art would understand that the pawl 30 is pivoted about the rotational axis of gear wheel 21 by ring 40 and thumb piece 52, both of which also rotate about the rotational axis of the gear wheel. Therefore, one of ordinary skill in the art would understand the scope of the claims including a pawl pivoting about the rotational axis of the gear wheel.

The Examiner does not make clear why the pawl "appears to be a sliding pawl," so the Applicant can not directly comment on the Examiner's clear misinterpretation of the specification and drawings. Given that neither "sliding" nor "slides" appears in the Applicant's specification, it is unclear how the pawl could be considered a "sliding pawl." Thus, given that the Applicant's specification clearly describes to one skilled in the art a pawl that pivots about the rotational axis of the gear wheel, claims 1 and 51 meet the requirements of 35 U.S.C. § 112, second paragraph. Therefore, the Examiner's rejection should be withdrawn.

#### Claim 20

The Examiner rejected claim 20 because of the claimed "third compartment." Claim 20 has been amended to delete the limitation.

#### Claim 21

Claim 21 has been canceled.

Claim 30

With respect to claim 30, the Examiner objects to the pawl being described as "rotating about the central axis" because the Examiner considers the pawl to be a "sliding pawl." As discussed above in relation to claims 1 and 51, the Applicant's specification clearly describes to one skilled in the art a pawl that rotates about the central axis of the gear wheel, claim 30 meet the requirements of 35 U.S.C. § 112, second paragraph. Therefore, the Examiner's rejection should be withdrawn.

Claims 40 and 41

Claims 40 and 41 were rejected for lacking antecedent basis. Claim 39, from which claims 40 and 41 depend, has been amended to depend from claim 33 so as to provide proper antecedent basis for claims 40 and 41.

Claim 45

Claim 45 has been canceled.

**Rejections under 35 U.S.C. 102(b)**

Claims 27-29, 31, 39, 43-49, and 59-61 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Knoll*. Claims 27-29, 31, 39, and 43-49 have been amended by amending independent claims 27 and 31 to include a reversing plate rotatable about the central axis and operable to move said pawl from a first position to a second position. *Knoll* does not include this feature and therefore, the Examiner's rejection of claims 27-29, 31, 39, and 43-49 is moot in view of the amended claims. Claims 59-61 have been amended by amending claim 59 to include the pawl being moved between a first ratcheting position and a second ratcheting position by pivoting about the central axis of the gear wheel. The Examiner's own comments correctly find that *Knoll* does not disclose "a pawl which

pivots about the gear wheel axis." Therefore, the Examiner's rejection of claims 59-61 is moot in view of the amended claims.

### **Rejections under 35 U.S.C. 103(a)**

Claims 1-5, 7-11, 14-16, 18-25, 30, 32-38, 40-42, 50-56, and 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Knoll* in view *Ling*. Claims 6, 12-13, 17, 26, and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Knoll* in view of *Ling* and *Colvin*.

#### Claims 1-7, 15-20, and 22-26

Claims 1-7, 15-20, and 22-26 either claim, or have been amended to claim, a pawl that is movable between a first position and a second position by pivoting about the rotational axis of the gear wheel. The Examiner finds that *Ling* teaches a pawl that pivots about the gear wheel axis and alternatively "takes Official Notice that the use of sliding/pivoting pawls as opposed to strictly pivoting pawls is notoriously old and well known in the art. The use of a sliding pawl is an obvious mechanical equivalent to the use of a pivoting pawl."

The pawl (30) of *Ling* is moved by pivoting switch member (60) that has a peg (63) that is engaged with slot (35) of the pawl. Therefore, pawl (30) can be said to pivot about the center of switch member (60) as well as pivot and translate relative to peg (63). There are no teachings in *Ling* that indicate that pawl (30) is pivoted about the rotational axis of gear wheel (20). Therefore, the Examiner's reliance on *Ling* to teach a pawl that pivots about the gear wheel axis is incorrect. Because neither *Knoll* nor *Colvin* teach a pawl that pivots about a gear wheel axis, the Examiner's rejections based on the combination of *Knoll* and *Ling* or *Knoll*, *Ling*, and *Colvin* should be withdrawn.

Further, the Applicant traverses the Examiner's Official Notice that "the use of sliding/pivoting pawls as opposed to strictly pivoting pawls is notoriously old and well known in the

art" and that the "use of a sliding pawl is an obvious mechanical equivalent to the use of a pivoting pawl." While the Applicant recognizes that both sliding and pivoting pawls are known in the art and that both sliding and pivoting pawls may perform the same functions, the Applicant does not agree that they are "obvious mechanical equivalents."

"In order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant 's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. In re Ruff ,256 F.2d 590,118 USPQ 340 (CCPA 1958), In re Scott ,323 F.2d 1016,139 USPQ 297 (CCPA 1963)." MPEP 2144.06. The Examiner has not provided any evidence that the use of a sliding/pivoting pawl is an obvious mechanical equivalent to a strictly pivoting pawl. The different types of pawls are not directly interchangeable and the substitution of one for the other would result in a significant redesign of the entire mechanism. For example, the pawl of *Ling* could not be used in the apparatus of *Knoll* without significant redesign of both the pawl and/or the body of the tool.

For at least the reasons discussed above, the Examiner's rejections of claims 1-7, 15-20, and 22-26 should be withdrawn.

#### Claims 8-14, 30, 32-38, 40-42, and 50-58

Claims 8-14, 30, 32-38, 40-42, and 50-58 have been amended to include a reversing plate rotatable about the central axis and operable to move said pawl from the first position to the second position. None of the art cited by the Examiner includes a pawl actuator that rotates about the central axis of the gear wheel. Therefore, the Examiner's obviousness-based rejection of claims 8-14, 30, 32-38, 40-42, and 50-58 is moot in light of the current amendments to the claims, and should be withdrawn.

#### **Conclusions**

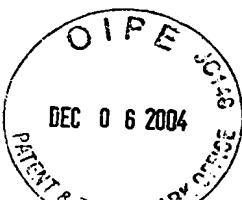
During the course of these remarks, Applicant has at times referred to particular limitations of the claims which are not shown in the applied prior art. This short-hand approach to discussing the claims should not be construed to mean that the other claimed limitations are not part of the claimed invention. They are as required by law. Consequently, when interpreting the claims, each of the claims should be construed as a whole, and patentability determined in light of this required claim construction.

If the Examiner has any questions or comments regarding this communication, he is invited to contact the undersigned to expedite the resolution of this application.

Respectfully submitted,



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**TRANSLATION OF OFFICE ACTION BY TAIWAN INTELLECTUAL PROPERTY OFFICE ON OPPOSITION TO PATENT APPLICATION**  
**No. 089200570 P01 IN TAIWAN**

**REASONS FOR REJECTION**

1. The Subject Application entitled "RATCHET WRENCH (2)" was filed on Jan. 11, 2000 and allowed on Oct. 24, 2001. The patentability of the Subject Application was determined based on the applicable Patent Law and Rules amended and published on Jan. 21, 1994.
2. The Subject Application comprises a handle, a drive member, a pawl, a ring, a revering plate, retaining means, and a transmission member. A head having a compartment is formed on an end of the handle. The drive member has first and second ends located outside the compartment in the head, with an intermediate portion of the drive member being rotatably received in the compartment of the head. A first teeth portion and a second teeth portion are formed on a side of the pawl, wherein the first teeth portion has a center of curvature located in a position different from a center of curvature of the second teeth portion. Two circles respectively formed by the curvatures with different centers intersect with each other at a point. A line passing through the point and one of the centers of curvatures is at an acute angle smaller than 30 degrees with another line passing through the point and the other center of curvature. The ring is pivotally mounted around the first end of the drive member and has a portion connected to the pawl. The reversing plate is pivotally mounted around the first end of the drive member. The retaining means is received in an end of the reversing plate. The transmission member is extended through a notch (p.s.: the rectangular opening section 142) between the drive member and the head. By means of operating the reversing plate which causes pivotal movement of the

ring through the transmission member, the pawl slides to a desired position in which one of the first teeth portion and the second teeth portion is engaged with the drive member according to the ratcheting direction, thereby allowing reversible operation of the ratchet wrench (see the claims).

3. The opposition evidence II and the enclosure I (hereinafter together referred to as CITED REFERENCE 1) provided by the applicant initiating the opposition procedure are respectively the Patent Publication No. 212343 published on Sep. 1, 1993 and entitled "QUICK REPLACEMENT STRUCTURE FOR A D-SHAPED RATCHET WHEEL OF A RATCHET WRENCH" and a comparing figure containing an insert block of the Patent Publication No. 212343 and Fig. 2-4-1 of the Subject Application.

The evidence III (hereinafter referred to as CITED REFERENCE 2) provided by the applicant initiating the opposition procedure is Patent Publication No. 130638 published on Mar. 11, 1990 and entitled "DIRECTION ADJUSTABLE REVESING STRUCTURE FOR A RATCHET WRENCH."

The evidence IV (hereinafter referred to as CITED REFERENCE 3) provided by the applicant initiating the opposition procedure is Patent Publication No. 310649 published on Jul. 11, 1997 and entitled "IMPROVED CATCH TOOTH STRUCTURE FOR A RATCHET WRENCH."

The publication date of CITED REFERENCE 1 is earlier than the filing date of the Subject Application and includes a handle, an insertion block, a direction adjusting member, a C-shaped retainer ring, a spring, a steel ball, a D-shaped ratchet wheel, a compression spring, a positioning steel ball, a push rod, a returning member, and a positioning block. The head of the handle includes an axial through-hole. A side of the insertion block facing the D-shaped ratchet wheel includes ratchet teeth for forward ratcheting operation and ratchet

teeth for reverse ratcheting operation. The handle, D-shaped ratchet wheel, insertion block, and direction adjusting button correspond to the handle, drive member, pawl, and transmission member and reversing plate of the Subject Application. In the CITED REFERENCE 1, the direction adjusting member is used to move the insertion block, and the direction adjusting member is pivotally mounted around a first end of the D-shaped ratchet wheel and located outside the head. Thus, the technique of using the direction adjusting member to control engagement direction between the insertion block and the D-shaped ratchet wheel is identical to that of the Subject Application.

The publication date of CITED REFERENCE 2 is earlier than the filing date of the Subject Application and discloses a direction adjustable reversing structure for a ratchet wrench, wherein an upper plate and a lower plate are engaged by screws to a body, and a ratchet wheel and a catch are disposed in a through-hole in an end of the body. The catch having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.

The publication date of CITED REFERENCE 3 is earlier than the filing date of the Subject Application and discloses an improved catch tooth structure for a ratchet wrench, wherein the catch body having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.

The features of the Subject Application have been respectively disclosed in the CITED REFERENCES 1, 2 and 3. The high-torque reversing effects of the CITED REFERENCES 1, 2, and 3 are the same as that of the Subject Application. Thus, the Subject Application can be easily achieved by one skilled in the art and fail to provide improved effectiveness. Hence, the CITED REFERENCES 1, 2 and 3 are evidential, and the independent claims 1 and 2 do not posses improvement. Further, the specific shapes of the compartment, notch,

drive member, pawl, reversing plate, tip piece, positioning piece, and retaining means recited in dependent claims 3-15 of the Subject Application are simple application of prior art without providing improved effectiveness and therefore not possessing improvement.

In conclusion, the Subject Application fails to meet the requirement of Article 98, paragraph 2 of the applicable Patent Law.

# 經濟部智慧財產局專利異議審定書

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A 1

發文日期：中華民國九十一年五月十七日

發文字號：（九一）智專三（三）02045字第  
09189001211號

一、被異議案號數：089200570PO-1

二、被異議案名稱：棘輪扳手（二）

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六、專利代理人：



七、異議日期：九十年四月十日

八、審查人員姓名：顏政雄 委員

九、審定主文：異議成立，應不予專利。

十、理由：

(一) 系爭案「棘輪扳手(二)」係於八十九年一月十一日申請專利，本局於九十年十月二十四日審定准予專利，則其有無應不予專利之原因，應以核准審定時所適用之八十三年一月二十一日修正公布之專利法規定為斷，合先說明。

(二) 系爭案係由扳手、驅動體、換向塊、撥動裝置、控制鈕、固定裝置與撥接件等主要構件所組成，扳手一端固設具容置間的頭部；驅動體以第一、二端分別凸出於頭部容置空間之外，中段容置於容置空間形成樞固狀態；換向塊一側分別設有第一與第二齒面，各齒面由不同圓心所形成之兩個弧率，兩圓心形成之圓交於一點，且兩圓心與相交點所形成之夾角小於三十度，撥動裝置套合樞設於驅動體之第一端，一側連動換向塊；控制鈕樞設於驅動體第一端；固定裝置容置於控制鈕之一端；撥接件穿設過驅動體與扳手頭部間的缺口，藉操作控制鈕，利用撥接件連動撥動裝置之樞擺，帶動換向塊產生滑移，換向塊則依換向位置之不同分別以其第一或第二齒面與驅動體產生嚙合，達棘輪扳手具有換向操作之功能者(詳見申請專利範圍)。

(三) 異議證據二與附件一分別為八十二年九月一日公告第二一二三四三號「棘輪扳手之棘輪

「口頭快速拆換構造」專利案影本及其嵌掣塊與系爭案第二圖之四之一的比較圖（以下合稱引證一），證據三為七十九年三月十一日公告第一三〇六三八號「棘輪扳手之轉向調整結構」專利案影本（引證二），證據四為八十六年七月十一日公告第三一〇六四九號「棘輪扳手止齒改良結構」專利案影本（引證三）。引證一公開日期早於系爭案申請日，係由棘輪扳手、嵌掣塊、方向調節鈕、「C」型扣環、彈簧、鋼珠、棘輪頭、壓縮彈簧、定位鋼珠、推桿、彈復元件與定位塊等六件所組成，棘輪扳手頭部設有貫穿軸孔，嵌掣塊於面對棘輪頭之一側設有正向與逆向棘齒，其棘輪扳手、棘輪頭、嵌掣塊與方向調節鈕等主要構件分別相當於系爭案扳手、驅動體、換向塊、撥動裝置與控制鈕，引證一利用一方向調節鈕來連動嵌掣塊，調節鈕樞設於棘輪頭之第一端且凸出於扳手頭部，藉調節鈕操控嵌掣塊與棘輪頭嚙合方向之技術手段與系爭案相同，引證二棘輪扳手公開日期早於系爭案申請日，揭示一種棘輪扳手之轉向調整結構，係藉上、下片體以定位螺絲與本體結合，並將棘輪及棘輪掣塊定位於本體一端貫穿槽內，其具第一與第二齒面之棘輪掣塊，相當於系爭案的換向塊；引證三揭示公開日早於系爭案申請日，揭示一種棘輪扳手止齒結構，其具第一齒面與第二面之止回爪本體，相當系爭案的換向塊，系爭案技藝已分別見於引證一、二、三中，引證一、二、三具有高扭力之換向功效亦與系爭案相同，系爭案為熟習該項技藝人士所能輕易完成且未能增進功效，故引證一、二、三具證據力，足以證明系爭案申請專利範圍第一、二項獨立項不具進步性。另系爭

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案申請專利範圍附屬項第三、四、五、六、七、八、九、十、~~十一~~、十二、十三、十四、十五項之容置空間、缺口、驅動體、換向塊、控制鈕、撥片、定位片及固定裝置等形狀特徵皆為習知技藝之簡單運用，並未增進功效，亦不具進步性。

據上論結：系爭案違反核准審定時應適用之專利法第九十八條第二項之規定，爰審定如主文。十一、如有不服，得於本處分書送達之次日起三十日內備具訴願書正、副本（均含附件），並檢附本處分書影本經由本局向經濟部提起訴願。

局長 陳明邦

依照分層負責規定授權單位主管決行

**TRANSLATION OF FIRST OFFICE ACTION ON PATENT APPLICATION**  
**No. 00103289.5 IN PEOPLE'S REPUBLIC OF CHINA**

**OFFICE ACTION**

1. Since the applicant only discloses an embodiment in the specification and since no structural features are depicted for the “elastic means” and “reversing plate,” claim 1 fails to clearly define the scope to be protected and thus fails to meet the requirement of Article 20 of the Patent Rules. Even if the structural features were illustrated to correspond to the claims, Article 18 of the Patent Rules would be violated. It is suggested to adopt claim 1 as the independent claim and to amend the dependency of the remaining claims.
2. The specification fails to provide a corresponding technical description for claim 2 and lacks subtitles, failing to meet the requirements of Article 18 of the Patent Rules.
3. The application should be amended according to the Examiner’s opinion and submitted in duplicate within the prescribed period of time, with the amended portions being clearly indicated. Should the applicant refuse to amend the application and fail to provide sufficient reasons, the present application will be rejected.



编号	文件号或名称	公开日期 (或抵触申请的申请日)
1		年 月 日
2		年 月 日
3		年 月 日
4		年 月 日

6. 审查的结论性意见:

关于说明书:

申请的内容属于专利法第5条规定的不授予专利权的范围。  
 说明书不符合专利法第26条第3款的规定。  
 说明书的撰写不符合实施细则第18条的规定。

关于权利要求书:

权利要求\_\_\_\_\_属于专利法第25条规定的不授予专利权的范围。  
 权利要求\_\_\_\_\_不符合实施细则第2条第1款关于发明的定义。  
 权利要求\_\_\_\_\_不具备专利法第22条第2款规定的新颖性。  
 权利要求\_\_\_\_\_不具备专利法第22条第3款规定的创造性。  
 权利要求\_\_\_\_\_不具备专利法第22条第4款规定的实用性。  
 权利要求\_\_\_\_\_不符合专利法第26条第4款的规定。  
 权利要求\_\_\_\_\_不符合专利法第31条第1款的规定。  
 权利要求\_\_\_\_\_不符合实施细则第20条至第23条的规定。  
 权利要求\_\_\_\_\_不符合专利法第9条的规定。  
 权利要求\_\_\_\_\_不符合实施细则第12条第1款的规定。

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。  
 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。  
 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

8. 申请人应注意下述事项:

(1) 根据专利法第37条的规定, 申请人应在收到本通知书之日起的 肆 个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。  
(2) 申请人对其申请的修改应符合专利法第33条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。  
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具有法律效力。  
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 1 页, 并附有下述附件:

引用的对比文件的复印件共 份 页。



审查 二 部

审查员 张海林

审查部门业务专用章

(未加盖审查业务专用章的通知书不具有法律效力)

## 一审通知

(一) 由于申请人在说明书中只公开了一个实施例，对“弹性装置”及“换向开关”没有指示其结构特征，故权利要求 1 不能清楚地描述划出保护范围而违反细则第 20 条规定。而如果划出结构特征就与权利要求一样而违反细则第 22 条规定，(建议以权利要求 2 作为权利要求 1 并修改相应的从属权利要求引用关系)。

(二) 说明书中缺乏与权利要求 2 相应的技术方案及缺乏说明书部分小标题而违反细则第 18 条规定。

(三) 按上述审查意见修改的申请文本一式两份应及时递交，并注明修改内容及相应的修改位置，如拒不修改又不能申述充分理由，此案将予驳回。

## **TRANSLATION OF DECISION BY THE BOARD OF APPEAL**

### **DECISON**

Appeal of Utility Model Application No. 89200570 P01 by the Appellant is rejected.

### **REASONS FOR REJECTION**

Article 97 and Article 98, paragraph 1 of the applicable Patent Law stipulate that: "Any innovation or improvement in the shape, structure, or device of articles applicable to industrial use may apply for a utility model patent pursuant to law." Nevertheless, Article 98, paragraph 2 of the applicable Patent Law stipulates that: "A utility model patent cannot be granted if the utility model uses technique or knowledge that is well known prior to filing of the utility model and thus can be easily achieved by one skilled in the art without improvement in effectiveness."

The Subject Application No. 89200570 entitled "RATCHET WRENCH (2)" comprises a handle, a drive member, a pawl, a ring, a revering plate, retaining means, and a transmission member. A head having a compartment is formed on an end of the handle. The drive member has first and second ends located outside the compartment in the head, with an intermediate portion of the drive member being rotatably received in the compartment of the head. A first teeth portion and a second teeth portion are formed on a side of the pawl, wherein the first teeth portion has a center of curvature located in a position different from a center of curvature of the second teeth portion. Two circles respectively formed by the curvatures with different centers intersect with each other at a point. A line passing through the point and one of the centers of curvatures is at an acute angle smaller than 30 degrees with another line passing through the point and the other center of curvature. The ring is pivotally mounted around the first end of the drive member and has a portion connected to the pawl. The

reversing plate is pivotally mounted around the first end of the drive member. The retaining means is received in an end of the reversing plate. The transmission member is extended through a notch between the drive member and the head. By means of operating the reversing plate which causes pivotal movement of the ring through the transmission member, the pawl slides to a desired position in which one of the first teeth portion and the second teeth portion is engaged with the drive member according to the ratcheting direction, thereby allowing reversible operation of the ratchet wrench.

The opposition evidence II and the enclosure I (hereinafter together referred to as CITED REFERENCE 1) provided by the applicant initiating the opposition procedure are respectively the Patent Application No. 82207518 entitled "QUICK REPLACEMENT STRUCTURE FOR A D-SHAPED RATCHET WHEEL OF A RATCHET WRENCH," filed on May 31, 1993 and published on Sep. 1, 1993 and a comparing figure containing an insert block of the Patent Application No. 82207518 and Fig. 2-4-1 of the Subject Application.

The opposition evidence III (hereinafter referred to as CITED REFERENCE 2) is Patent Application No. 77209984 entitled "DIRECTION ADJUSTABLE REVERSING STRUCTURE FOR A RATCHET WRENCH," filed on Oct. 20, 1988 and published on Mar. 11, 1990.

The opposition evidence IV (hereinafter referred to as CITED REFERENCE 3) is Patent Application No. 86200529 entitled "IMPROVED CATCH TOOTH STRUCTURE FOR A RATCHET WRENCH," filed on Jan. 13, 1997 and published on Jul. 11, 1997.

The TIPO (Taiwan Intellectual Property Office) deemed that "...*The CITED REFERENCE 1 includes a handle, an insertion block, a direction adjusting member, a C-shaped retainer ring, a spring, a steel ball, a D-shaped ratchet wheel, a*

*compression spring, a positioning steel ball, a push rod, a returning member, and a positioning block, wherein the head of the handle includes an axial through-hole, a side of the insertion block facing the D-shaped ratchet wheel includes ratchet teeth for forward ratcheting operation and ratchet teeth for reverse ratcheting operation. The handle, D-shaped ratchet wheel, insertion block, and direction adjusting button correspond to the handle, drive member, pawl, and transmission member and reversing plate of the Subject Application. In the CITED REFERENCE 1, the direction adjusting member is used to move the insertion block, and the direction adjusting member is pivotally mounted around a first end of the D-shaped ratchet wheel and located outside the head. Thus, the technique of using the direction adjusting member to control engagement direction between the insertion block and the D-shaped ratchet wheel is identical to that of the Subject Application.*

*The CITED REFERENCE 2 discloses a direction adjustable reversing structure for a ratchet wrench, wherein an upper plate and a lower plate are engaged by screws to a body, and a ratchet wheel and a catch are disposed in a through-hole in an end of the body. The catch having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.*

*The publication date of CITED REFERENCE 3 discloses an improved catch tooth structure for a ratchet wrench, wherein the catch body having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.*

*The features of the Subject Application have been respectively disclosed in the CITED REFERENCES 1, 2 and 3. The high-torque reversing effects of the CITED REFERENCES 1, 2, and 3 are the same as that of the Subject Application. Thus, the Subject Application can be easily achieved by one skilled in the art and fail to provide improved effectiveness. Hence, the CITED REFERENCES 1, 2 and 3 are evidential, and the independent claims 1 and 2 do not posses improvement. Further, the specific*

*shapes of the compartment, notch, drive member, pawl, reversing plate, tip piece, positioning piece, and retaining means recited in dependent claims 3-15 of the Subject Application are simple application of prior art without providing improved effectiveness and therefore not possessing improvement.”*

Therefore, the TIPO stood for the opposition and rejected the Subject Application.

The Appellant alleged that: “*...The technical measure used in the Subject Applicant is different from those disclosed in the CITED REFERENCES 1, 2, and 3. The pawl of the Subject Application “slides leftward and rightward” in the compartment. But the insertion block of CITED REFERENCE 1, the catch of CITED REFERENCE 2, and the catch body of CITED REFERENCE 3 “pivot clockwise and counterclockwise” in the respective compartments. One of the first teeth portion and the second teeth portion of the “sliding type dual-center” pawl is engaged with the drive member according to the ratcheting direction. The meshing relationship between the first teeth portion and the drive member differs from that between the second teeth portion and the drive member, achieving a balance in a portion of the pawl to which a force is exerted. The number of teeth engaged with the drive member is greater than that in the prior art pawl, and the force exerted to each tooth is more uniform and reliable, thereby improving the torque-bearing capacity. Thus, the Subject Application improves effectiveness and thus possesses improvement. Accordingly, withdrawal of the rejection decision by the TIPO is respectfully requested.”*

After review of this case and comparing the CITED REFERENCES with the Subject Application, it was found that although the shape, teeth portions, and the number of teeth of the insertion block of the CITED REFERENCE 1, the catch of the CITED REFERENCE 2, and the catch body of the CITED REFERENCE 3 are slightly

different from those of the Subject Application, yet in view of that fact that the CITED REFERENCE 1 includes a handle, an insertion block, a direction adjusting member, a C-shaped retainer ring, a spring, a steel ball, a D-shaped ratchet wheel, a compression spring, a positioning steel ball, a push rod, a returning member, and a positioning block, wherein the head of the handle includes an axial through-hole, a side of the insertion block facing the D-shaped ratchet wheel includes ratchet teeth for forward ratcheting operation and ratchet teeth for reverse ratcheting operation. The handle, D-shaped ratchet wheel, insertion block, and direction adjusting button correspond to the handle, drive member, pawl, and transmission member and reversing plate of the Subject Application. In the CITED REFERENCE 1, the direction adjusting member is used to move the insertion block, and the direction adjusting member is pivotally mounted around a first end of the D-shaped ratchet wheel and located outside the head. Thus, the technique of using the direction adjusting member to control engagement direction between the insertion block and the D-shaped ratchet wheel is identical to that of the Subject Application.

Further, the CITED REFERENCE 2 discloses a direction adjustable reversing structure for a ratchet wrench, wherein an upper plate and a lower plate are engaged by screws to a body, and a ratchet wheel and a catch are disposed in a through-hole in an end of the body. The catch having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.

Further, the publication date of CITED REFERENCE 3 discloses an improved catch tooth structure for a ratchet wrench, wherein the catch body having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.

In view of above, the features of the Subject Application have been respectively disclosed in the CITED REFERENCES 1, 2 and 3. The high-torque

reversing effects of the CITED REFERENCES 1, 2, and 3 are the same as that of the Subject Application. Thus, the Subject Application can be easily achieved by one skilled in the art and fail to provide improved effectiveness. All of the reasons have been clearly set forth in the TIPO's answer to the Appeal Brief.

Hence, the rejection by the TIPO on the basis that the CITED REFERENCES 1, 2, and 3 are evidential to prove that the Subject Application fails to meet the requirement of Article 98, paragraph 2 of the Patent Law was proper, and such rejection is upheld.

As to the PATENT ANAYSIS REPORT made by the TAIWAN MECHANICIAN ASSOCIATION under entrustment by the Appellant for arguing the improvement of the Subject Application, it is decided that the PATENT ANAYSIS REPORT cannot be the advantageous basis of patentability, as the patent analysis procedure is irrelevant to the patent opposition procedure. Further, the oral hearing requested by the Appellant is unnecessary, as the case is clear.

經濟部訴願決定書

中華民國九十一年十一月五日

經訴字第09106126160號

訴願人：胡厚飛君

住：臺中市大進街五三六之一號八樓

代理人：林殷世君

事務所：臺中市北屯區崇德路二段一三〇號六樓A一

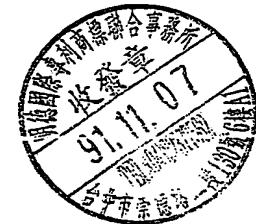
訴願人因第八九二〇〇五七〇號新型專利異議事件（P〇一），不服原處分機關智慧財產局九十一年五月十七日（九一）智專三（三）02045字第〇九一八九〇〇一二一號專利異議審定書所為之處分，提起訴願，本部決定如左：

主 文

訴願駁回。

事 實

緣訴願人前於八十九年一月十一日以「棘輪扳手（二）」向原處分機關智慧財產局申請新型專利，經該局編為第八九二〇〇五七〇號審查，准予專利。公告期間，關係人



甘冠娟君以其不符合系爭專利核准審定時專利法（八十三年一月二十一日修正公布之專利法）第九十七條、第九十八條第一項第一款及第二項所定之新型專利要件，對之提起異議，案經原處分機關智慧財產局審查，於九十一年五月十七日以（九一）智專三（三）02045字第〇九一八九〇〇一二一一號專利異議審定書為「異議成立，應不予專利」之處分。訴願人不服，經由原處分機關向本部提起訴願，並經原處分機關依訴願法第五十八條第三項之規定檢卷答辯到部。

#### 理 由

按凡對物品之形狀、構造或裝置之創作或改良，而可供產業上利用者，得依法申請取得新型專利，因為系爭專利核准審定時專利法第九十七條暨第九十八條第一項前段所明定。惟其新型如係運用申請前既有之技術或知識，而為熟習該項技術者所能輕易完成且未能增進功效時，仍不得依法申請取得新型專利，復為同法第九十八條第二項所明定。

本件系爭第八九二〇〇五七〇號「棘輪扳手（二）」新型專利案，係由扳手、驅動體、換向塊、撥動裝置、控制鈕、固定裝置與撥接件等主要構件所組成，扳手一端固設具容置間的頭部；驅動體以第一、二端分別凸出於頭部容置空間之外，中段容置於容置空間形成樞固狀態；換向塊一側分別設有第一與第二齒面，各齒面由不同圓心所形成之兩個

弧率，兩圓心形成之圓交於一點，且兩圓心與相交點所形成之夾角小於三十度，撥動裝置套合樞設於驅動體之第一端，一側連動換向塊；控制鈕樞設於驅動體第一端；固定裝置容置於控制鈕之一端；撥接件穿設過驅動體與扳手頭部間的缺口，藉操作控制鈕，利用撥接件連動撥動裝置之樞擺，帶動換向塊產生滑移，換向塊則依換向位置之不同分別以其第一或第二齒面與驅動體產生噏合，達棘輪扳手具有換向操作之功能者。關係人於異議階段所提出之異議證據二與附件一分別為八十二年五月三十一日申請，八十二年九月一日審定公告之第八二二〇七五一八號「棘輪扳手之棘輪D頭快速拆換構造」新型專利案（下稱引證一）及其嵌掣塊與系爭案第二圖之四之一的比較圖；異議證據三為十七年十月二十日申請，七十九年三月十一日審定公告之第七七二〇九九八四號「棘輪扳手之轉向調整結構」新型專利案（下稱引證二）；異議證據四為八十六年一月十三日申請，八十六年七月十一日審定公告之第八六二〇〇五二九號「棘輪扳手止齒改良結構」新型專利案（下稱引證三）。原處分機關認引證一係由棘輪扳手、嵌掣塊、方向調節鈕、「C」型扣環、彈簧、鋼珠、棘輪「D」頭、壓縮彈簧、定位鋼珠、推桿、彈復元件與定位塊等六件所組成，棘輪扳手頭部設有貫穿軸孔，嵌掣塊於面對棘輪D頭之一側設有正向與逆向棘齒，其棘輪扳手、棘輪「D」頭、嵌掣塊與方向調節鈕等主要構件分別相



當於系爭案扳手、驅動體、換向塊、撥動裝置與控制鈕，引證一利用一方向調節鈕來運動嵌掣塊，調節鈕樞設於棘輪D頭之第一端且凸出於扳手頭部，藉調節鈕操控嵌掣塊與棘輪D頭啮合方向之技術手段與系爭案相同。引證二揭示一種棘輪扳手之轉向調整結構，係藉上、下片體以定位螺絲與本體結合，並將棘輪及棘輪掣塊定位於本體一端貫穿槽內，其具第一與第二齒面之棘輪掣塊，相當於系爭案的換向塊。引證三揭示一種棘輪扳手止齒結構，其具第一齒面與第二齒面之止回爪本體，相當系爭案的換向塊，系爭案技藝已分別見於引證一、二、三中，引證一、二、三具有高扭力之換向功效亦與系爭案相同，系爭案為熟習該項技藝人士所能輕易完成且未能增進功效，故引證一、二、三具證據力，足以證明系爭案申請專利範圍第一、二項獨立項不具進步性。另系爭案申請專利範圍附屬項第三、四、五、六、七、八、九、十、十一、十二、十三、十四、十五項之容置空間、缺口、驅動體、換向塊、控制鈕、撥片、定位片及固定裝置等形狀特徵皆為習知技藝之簡單運用，並未增進功效，亦不具進步性，乃為「異議成立，應不予專利」之處分。訴願人固訴稱，系爭案與引證一、二及三所利用之技術手段為兩種完全不同之掣動型態，系爭案之換向塊係於容槽內「左右滑移」；反觀引證一之嵌掣塊、引證二之棘輪掣塊及引證三之止回爪本體，係皆於容槽內「順、逆時鐘樞轉」。系爭案「滑移型雙中心」之

換向塊則依換向位置之不同分別以其第一齒面或第二齒面與驅動體產生嚙合，依不同圓弧之第一齒面及第二齒面各自產生嚙合狀態，達到維持換向塊受力一方之平衡，則施力自會平均落在受力齒面上的每一個齒，藉此達到受力平均之目的，不但實在的齒合齒數較習知換向塊的實際受力齒數多，且每一齒的咬合受力平均更穩固確實，故在提高承受操作扭力上，系爭案有顯著之功效增進，明顯具有進步性，請求撤銷原處分云云。經查，由各項異議證據與系爭案之比較結果，引證一嵌掣塊、引證二棘輪掣塊，引證三止回爪本體之形狀、齒面以及齒數等，雖與系爭案換向塊稍有不同，惟引證一係由棘輪扳手、嵌掣塊、方向調節鈕、「C」型扣環、彈簧、鋼珠、棘輪D頭、壓縮彈簧、定位鋼珠、推桿、彈復元件與定位塊等六件所組成，棘輪扳手頭部設有貫穿軸孔，嵌掣塊於面對棘輪D頭之一側設有正向與逆向棘齒，其棘輪扳手、棘輪D頭、嵌掣塊與方向調節鈕等主要構件分別相當於系爭案扳手、驅動體、換向塊、撥動裝置與控制鈕，引證一利用一方向調節鈕來運動嵌掣塊，調節鈕樞設於棘輪D頭之第一端且凸出於扳手頭部，藉調節鈕操控嵌掣塊與棘輪D頭嚙合方向之技術手段與系爭案相同。次查，引證二揭示一種棘輪扳手之轉向調整結構，係藉上、下片體以定位螺絲與本體結合，並將棘輪及棘輪掣塊定位於本體一端貫穿槽內，其具第一與第二齒面之棘輪掣塊，相當於系爭案的換向塊。再

者，引證三揭示一種棘輪扳手止齒結構，其具第一齒面與第二面之之止回爪本體，相當系爭案的換向塊。綜上所述，系爭案技藝已分別見於引證一、二及三中，引證一、二及三具有高扭力之換向功效亦與系爭案相同，系爭案為熟習該項技藝人士所能輕易完成且未能增進功效，系爭案不具進步性，凡此業經原處分機關九十一年九月二十三日（九一）智專三（三）05052字第〇九一三一〇〇一四二六號訴願答辯書論明綦詳，經核並無不合。職是之故，本件原處分機關認引證一至三已足以證明系爭案違反前揭專利法第九十八條第二項之規定，所為「異議成立，應不予專利」之處分，衡諸前開說明，洵無違誤，應予維持。至訴願人於訴願階段提出之委託臺灣省機械技師工會鑑定之專利分析鑑定報告，認系爭案具進步性乙節。查鑑定程序與專利專責機關依法所為之專利異議審查程序不同，訴願人尚難執該專利分析鑑定報告作為有利之論據。又訴願人請求到部溝通解說一事，因依現有事證予以審究，本件訴願之案情已臻明確，所請核無必要，均併予指明。

據上論結，本件訴願為無理由，爰依訴願法第七十九條第一項之規定決定如主文。

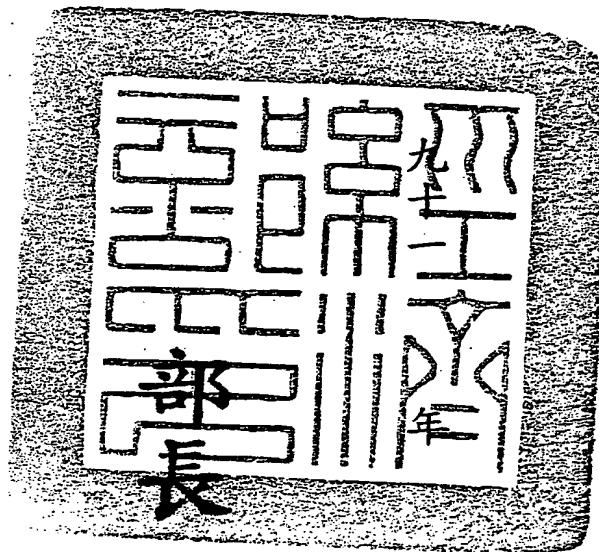
訴願審議委員會主任委員

委員 王文智

委員 朱義旭

李欽賢

中華民國



十一

月

日

委員 林誠二  
委員 林榮慶  
委員 段重民  
委員 楊照彥  
委員 蔡明誠  
委員 鮑娟

林義文

如不服本訴願決定，得於決定書送達之次日起二個月內向臺北高等行政法院（臺北市和平東路三段一巷一號）提起行政訴訟。

## **TRANSLATION OF TIPO'S ANSWER TO APPEAL BRIEF**

### **TIPO'S (Taiwan Intellectual Property Office's) ANSWER**

Items 1 and 2 of the Appeal Brief describe the features of the Subject Application and the history of wrenches.

Items 3-7 of the Appeal Brief allege that the Subject Application is patentable, yet it is incorrect. In fact, by comparison, although the shape, teeth portions, and the number of teeth of the insertion block of the CITED REFERENCE 1, the catch of the CITED REFERENCE 2, and the catch body of the CITED REFERENCE 3 are slightly different from those of the Subject Application, yet in view of that fact that the CITED REFERENCE 1 includes a handle, an insertion block, a direction adjusting member, a C-shaped retainer ring, a spring, a steel ball, a D-shaped ratchet wheel, a compression spring, a positioning steel ball, a push rod, a returning member, and a positioning block, wherein the head of the handle includes an axial through-hole, a side of the insertion block facing the D-shaped ratchet wheel includes ratchet teeth for forward ratcheting operation and ratchet teeth for reverse ratcheting operation. The handle, D-shaped ratchet wheel, insertion block, and direction adjusting button correspond to the handle, drive member, pawl, and transmission member and reversing plate of the Subject Application. In the CITED REFERENCE 1, the direction adjusting member is used to move the insertion block, and the direction adjusting member is pivotally mounted around a first end of the D-shaped ratchet wheel and located outside the head. Thus, the technique of using the direction adjusting member to control engagement direction between the insertion block and the D-shaped ratchet wheel is identical to that of the Subject Application.

The CITED REFERENCE 2 discloses a direction adjustable reversing structure for a ratchet wrench, wherein an upper plate and a lower plate are engaged

by screws to a body, and a ratchet wheel and a catch are disposed in a through-hole in an end of the body. The catch having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.

The publication date of CITED REFERENCE 3 discloses an improved catch tooth structure for a ratchet wrench, wherein the catch body having a first teeth portion and a second teeth portion corresponds to the pawl of the Subject Application.

The features of the Subject Application have been respectively disclosed in the CITED REFERENCES 1, 2 and 3. The high-torque reversing effects of the CITED REFERENCES 1, 2, and 3 are the same as that of the Subject Application. Thus, the Subject Application can be easily achieved by one skilled in the art and fail to provide improved effectiveness.

Accordingly, rejection of the Subject Application by the TIPO was proper. Rejection of the Appeal is, therefore, respectfully requested.

副本

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附件：如文

主旨：檢送第0892100570401號專利異議事件之訴願答辯書一份，暨申請卷二宗、異議卷

一宗，請核辦。

說明：依 貴會九十一年七月十五日B2-091-06-151(24069)號調卷函辦理。

正本：經濟部訴願審議委員會

副本：胡厚飛 先生（代理人：林殷世 先生）（含答辯書）

局長 蔡練生

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訴願答辯書

中華民國九十一年九月二十三日  
（九一）智專三（三）05052字第〇九一三一〇〇一四二六號

訴願人：胡厚飛 先生

代理人：林殷世 先生

答辯機關 經濟部智慧財產局

事實

訴願人於八十九年一月十一日以「棘輪扳手（二）」申請第〇八九二〇〇五七〇號新型專利案，於審定公告中為關係人甘冠娟先生提起異議，經本局於九十一年五月十七日以（九一）智專三（三）02045字第〇九一八九〇〇一二一號異議審定書審定，異議成立，應不予專利，訴願人不服，提起訴願。

理由

一、訴願理由第一、二項係敘述系爭案專利特徵及扳手之發展歷史。

二、訴願理由第三、四、五、六、七項所稱「系爭案具有進步性」一節，並不正確。事實上，由各項異議證據與系爭案之比較結果，引證一嵌掣塊、引證二棘輪掣塊、引證三止回爪本體之形狀，齒面以及齒數等，雖與系爭案換向塊稍有不同，惟引證一係由棘輪扳手、嵌掣塊、方向調節鈕、「C」型扣環、彈簧、鋼珠、棘輪D頭、壓縮彈簧、定位鋼珠、推桿、彈復元件與定位塊等六件所組成，棘輪扳手頭部設有貫穿軸孔，嵌掣塊於面對棘輪D頭之一側設有正向與逆向棘齒，其棘輪扳手、棘輪D頭、嵌掣塊與方向調節鈕等主要構件分別相當於系爭案扳手、驅動體

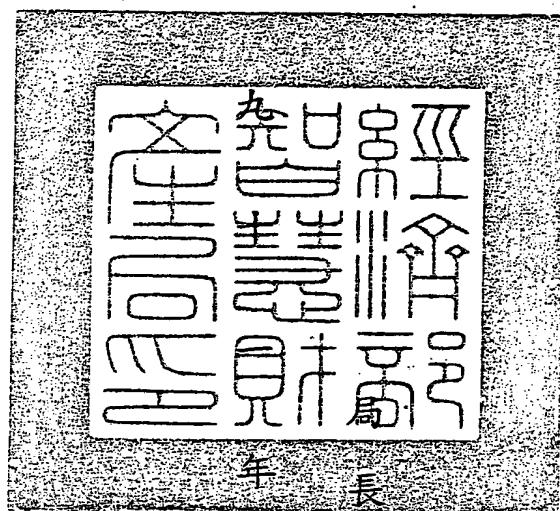
、換向塊、撥動裝置與控制鈕，引證一利用一方向調節鈕來運動嵌掣塊，調節鈕樞設於棘輪D頭之第一端且凸出於扳手頭部，藉調節鈕操控嵌掣塊與棘輪D頭嚙合方向之技術手段與系爭案相同，引證二揭示一種棘輪扳手之轉向調整結構，係藉上、下片體以定位螺絲與本體結合，並將棘輪及棘輪掣塊定位於本體一端貫穿槽內，其具第一與第二齒面之棘輪掣塊，相當於系爭案的換向塊；引證三揭示一種棘輪扳手止齒結構，其具第一齒面與第二面之止回爪本體，相當於系爭案的換向塊，系爭案技藝已分別見於引證一、二、三中，引證一、二、三具有高扭力之換向功效亦與系爭案相同，系爭案為熟習該項技藝人士所能輕易完成且未能增進功效，系爭案未具進步性。

綜上所述，本局原處分並無違誤，敬請駁回訴願。

右陳

經濟部

中華民國



蔡練生

九月二十三日



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